

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

MAGDELENA MOL,)	PLAINTIFF
)	DEMAND TRIAL BY JURY
)	
Plaintiff,)	Case No.
)	
v.)	Judge
)	
CARMEN SCARDINE Star# 220)	Magistrate
and the CITY OF JUSTICE)	
)	
Defendants.)	

COMPLAINT

NOW COMES Plaintiff MAGDELENA MOL, by and through her attorney, SCOTT T. KAMIN with THE LAW OFFICES OF SCOTT T. KAMIN, and complaining against Defendants, CARMEN SCARDINE Star#220, and the CITY OF JUSTICE, states as follows:

NATURE OF CLAIM

1. This action arises under 42 U.S.C. §1983, 28 U.S.C. §1367, to redress deprivations of the civil rights of plaintiff through acts and/or omissions of defendants committed under color of law. Specifically here, defendants deprived plaintiff of his rights under the Fourth, Fifth and Fourteenth Amendments to the United States Constitution

2. Additionally, plaintiff relies upon the Court's pendent jurisdiction to assert the Illinois state claims of assault, battery, and intentional infliction of emotional distress.

JURISDICTION AND VENUE

3. The jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§1331, 1343(a)(3).

4. Venue lies in the United States District Court, Northern District of Illinois, pursuant to 28 U.S.C. §1391, because all events or omissions giving rise to this claim occurred in this district.

PARTIES

5. At all times herein mentioned plaintiff resided within the jurisdiction of the court.

6. At all times herein mentioned, defendant CARMEN SCARDINE was an officer employed by the Justice Police Department and was acting under color of state law and as the employees or agents of the City of Justice, Illinois. He is being sued in his individual capacity.

7. Defendant CITY OF JUSTICE is a municipal corporation, duly organized under the laws of the State of Illinois. Defendant CITY OF JUSTICE maintained, managed, and/or operated the Chicago Police Department.

FACTS

6. Plaintiff Magdalena Mol ("Mol") is married with one child and a resident of Burbank, Illinois.

7. On the evening of May 5, 2012, Plaintiff attended a social gathering at a friend's house residing at an apartment complex in Justice, Illinois.

8. At the conclusion of the gathering, Mol called the Chicago Ridge Cab company for transportation back to her place of residence in Burbank, IL.

9. Sometime around midnight, May 6, 2012, Mol went outside to wait alone for her cab at the front of the complex. While waiting, Mol noticed a marked Justice Police vehicle driving in the opposite direction.

10. Driving the vehicle was defendant officer **CARMEN SCARDINE** ("SCARDINE") in full uniform, including; badge, firearm, and duty belts.

11. Defendant SCARDINE stopped his vehicle in the middle of the street and shouted out to Mol from across the street. Mol ignored his advances. SCARDINE made a u-turn to cross over to the same side of the street as Mol.

12. SCARDINE proceeded to question Mol through the window of his vehicle and requested for her to come approach. Although, alone, and scared, Mol hesitantly complied with his command.

13. Defendant SCARDINE then demanded that Mol get into his vehicle. Mol replied, "No." several times because she was alone, afraid, and had not been engaged in any illegal activity.

14. After SCARDINE's final command he exited his duty vehicle and opened his passenger door; Mol was then seated in the front with him.

15. Defendant SCARDINE requested Mol's identification card. Mol became more terrified fearing such request was a threat to arrest. Defendant SCARDINE heightened said used his police vehicle radio to call into dispatch to run the first and last name of Plaintiff.

16. While waiting, the cab driver arrived to pick up Plaintiff, defendant told the driver to turn his car around and wait until he came back and then proceeded to drive Plaintiff back inside the apartment complex.

17. Defendant SCARDINE pulled into a dark, secluded spot in the parking lot, parked in a way that blocked any possible exit for Mol, and exited his vehicle and walked around to the passenger seat where Mol was seated.

18. SCARDINE proceeded to unzip his pants, exposed his penis, grabbed Mol's head and forced her to perform the act of oral sex on him. Under duress and fear of being arrested, again Mol complied.

19. After this act of sexual gratification for defendant he zipped up, walked over to the driver side of his vehicle, pulled off and drove Mol back to the cab where the driver was still waiting.

20. Upon reaching the cab driver, Mol exited defendants vehicle got into the cab and began to cry. While riding in the cab, plaintiff called the friend of whose house she had just left and told him what had just happened.

21. Later on May 6, 2012, the afternoon on the same day of incident, Mol went to the Burbank Police Department and reported the assault of CARMEN SCARDINE.

22. Burbank police contacted the Justice Police Department who conducted a full internal investigation.

23. The Justice Police Department found that Mol complaint against SCARDINE was sustained.

24. By reason of the above-described acts and omissions of the defendant police officer, plaintiff sustained injuries, humiliation, and indignities, and suffered great mental and emotional pain and suffering, all to her damage.

25. The aforementioned acts of the defendant police officer was willful, wanton, malicious, oppressive, and done with reckless indifference to and/or callous disregard for plaintiff's rights and justify the awarding of exemplary and punitive damages.

COUNT I
Plaintiff, MAGDELENA MOL, Against Defendant SCARDINE

for violating her Substantive Due Process rights under the Fourteenth Amendment

26. Plaintiff, MAGDELENA MOL, incorporates and realleges paragraphs 6-25, as through set forth herein in their entirety.

27. Plaintiff, MAGDELENA MOL, has a liberty interest in her right to bodily integrity and that it not be violated.

28. Defendant SCARDINE used his official authority to force Plaintiff, MAGDELENA MOL, to perform oral sex on him, which constituted a serious act distinct from a nominal or trivial, battery and brutally constituted an inhumane abuse of official power.

29. Defendant SCARDINE use of his official authority to force Plaintiff, MAGDELENA MOL, to perform oral sex on him constitutes conduct that shocks the conscience.

30. By reason of the conduct of the individual defendant officer, plaintiff, MAGDELENA MOL, was deprived of rights, privileges and immunities secured to her by Fourteenth Amendment as stated in the Constitution of the United States and laws enacted there under. Therefore, defendant SCARDINE is liable to plaintiff pursuant to 42 U.S.C. §1983.

COUNT II
Plaintiff, MAGDELENA MOL, Against Defendant SCARDINE
for False Arrest and Illegal Detention

31. Plaintiff, MAGDELENA MOL, incorporates and realleges paragraphs 6-25, as through set forth herein in their entirety.

32. The arrest and detention of plaintiff by defendant SCARDINE was without a warrant, without probable cause and unreasonable.

33. By reason of the conduct of the individual defendant officer, plaintiff, MAGDELENA MOL, was deprived of rights, privileges and immunities secured to her by fourth Amendment as stated in the Constitution of the United States and laws enacted thereunder. Therefore, defendant SCARDINE is liable to plaintiff pursuant to 42 U.S.C. §1983.

COUNT III
Against Defendant SCARDINE and CITY OF JUSTICE
for Assault 42 U.S.C. §1983

34. Plaintiff restates and realleges all the statements made in paragraphs 6-25 of this Complaint as through fully set forth herein.

35. Defendant SCARDINE owed a duty not to abuse his position as a Justice Police Officer and use reasonable care in his interaction with plaintiff.

36. By his manner of making sexual advances and holding plaintiff against her will to perform sexual acts, SCARDINE used his status of being a Justice Police Officer. Defendant SCARDINE, implicitly threatened plaintiff and placed her in fear of imminent physical force.

37. Defendant SCARDINE is liable to plaintiff **MAGDELENA MOL** under Illinois law for the state supplemental claim of assault.

38. Defendant CITY OF JUSTICE is liable to plaintiff **MAGDELENA MOL** pursuant to the doctrine of *respondeat superior*.

COUNT IV
Plaintiff, MAGDELENA MOL, Against Defendant SCARDINE for Battery

39. Plaintiff, MAGDELENA MOL, incorporates and realleges paragraphs 6-25, as through set forth herein in their entirety.

40. The physical contact by defendant SCARDINE was offensive and injurious, and against plaintiff's will.

41. Defendant SCARDINE owed a duty to exercise reasonable care in his interaction with plaintiff.

42. Defendant SCARDINE acted intentionally, wilfully, and wantonly in being aggressive and demanding sexual gratification from plaintiff by way of oral sex. The violence inflicted on plaintiff were excessive, unnecessary, unreasonable, and without legal cause.

43. Defendant SCARDINE is liable to plaintiff under Illinois law for the state supplemental claim of battery.

44. Defendant CITY OF JUSTICE is liable pursuant to the doctrine of *respondeat superior*.

COUNT V
Plaintiff, MAGDELENA MOL, Against ALL Defendants
for Intentional Infliction of Emotional Distress

45. Plaintiff, MAGDELENA MOL, incorporates and realleges paragraphs 6-25, as through set forth herein in their entirety.

46. The conduct of the individual defendant was extreme and outrageous. The individual defendant intended to inflict severe emotional distress or knew that there was a high probability that their conduct would do so.

47. Defendants' conduct did, in fact, cause plaintiff severe emotional distress.

48. The individual defendant is therefore liable to plaintiff under Illinois law for the state supplemental claim of intentional infliction of emotional distress.

49. Defendant CITY OF JUSTICE is liable for the acts of the individual defendant pursuant to the doctrine of *respondeat superior*.

COUNT VI
INDEMNIFICATION CLAIM UNDER 745 ILCS 10/9-102
AGAINST DEFENDANT CITY OF JUSTICE

50. Plaintiff restates and realleges all the statements made in paragraphs 6-25 of this Complaint as through fully set forth herein.

51. Defendant CITY OF JUSTICE was, at all times material to this Complaint, the employer of the police defendants.

52. The individual defendants committed the acts alleged above in the scope of their employment as employees of Defendant CITY OF JUSTICE.

WHEREFORE, plaintiff, MAGDELENA MOL, by and through her attorneys, THE LAW OFFICES OF SCOTT T. KAMIN, requests judgment as follows against defendants, CARMEN SCARDINE Star# 220, and the CITY OF JUSTICE on each and every claim:

- A. That defendants be required to pay plaintiff general damages, including emotional distress, in a sum to be ascertained at a trial of this matter,
- B. That defendants be required to pay plaintiff special damages,
- C. That defendants, and CITY OF JUSTICE, be required to pay plaintiff attorneys' fees pursuant to 42 U.S.C. §1988, or any other applicable provision,
- D. That defendants, except CITY OF JUSTICE, be required to pay plaintiff punitive damages in a sum to be ascertained at a trial of this matter,
- E. That defendants be required to pay plaintiff costs of the suit herein incurred, and
- F. That plaintiff be granted such other and further relief as this Court may deem just and proper.

PLAINTIFFS HEREBY REQUEST A TRIAL BY JURY.

Dated: November 16, 2012

/s/ Scott T. Kamin

Scott T. Kamin

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